



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

November 15, 1995

Ms. Sandra C. Joseph  
Open Records Counsel/Disclosure Officer  
Office of the Comptroller of Public Accounts  
LBJ State Office Building  
111 East 17th Street  
Austin, Texas 78774

OR95-1239

Dear Ms. Joseph:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 36606.

The Comptroller of Public Accounts (the "comptroller") received a request for the "1994 Property Value Study appeals files, including all evidence, supporting documentation and staff recommendations" for three particular school districts. You state that the three school districts to which the request for information relates have sued the comptroller challenging one or more aspects of the 1994 Property Value Study conducted on the school districts. You have submitted for our review copies of the filed original petitions in the three litigations.<sup>1</sup> You contend that the requested information is excepted from required public disclosure pursuant to section 552.103(a), the litigation exception. Because of the volume of responsive documents, you have submitted a representative sample of the documents contained in the appeals files at issue.<sup>2</sup>

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<sup>1</sup>While the three districts raise similar claims against the comptroller and the same attorney represents the three districts, we note that the cases have three different docket numbers; therefore, we assume that these are three separate cases.

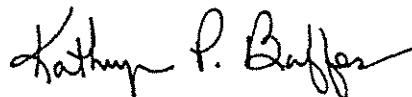
<sup>2</sup>In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988) (where requested documents are numerous and repetitive, governmental body should submit representative sample; but if each record contains substantially different information, all must be submitted). This open records letter does not reach, and therefore does not authorize the withholding of any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). In this instance you have made the requisite showing that the requested information relates to pending litigation for purposes of section 552.103(a).

In reviewing the information submitted, we believe that many of the documents you have submitted for our review would have been seen by the respective opposing parties in the three litigations. Absent special circumstances, once information has been obtained by all parties to the litigation, through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349 (1982), 320 (1982). You do not suggest, and there is no indication that the information associated with each district is related to any of the other districts. Therefore, if the opposing party in each of the litigations has seen or had access to any of the information in the comptroller's appeals files that relate to the litigation in which that district is involved, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). Additionally, the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982). With these considerations, you may withhold the requested information pursuant to section 552.103(a).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kathryn P. Baffes  
Assistant Attorney General  
Open Records Division

KPB/rho

Ref: ID# 36606

Enclosures: Submitted documents

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(w/o enclosures)